award, and the sub-section would not bar further proceedings brought where the previous action had been discontinued under O. 26 as a result of technical difficulties, as in this case, because there has been no finding on the issue of negligence nor has there been a final award.

In so far as the question of damages is concerned, it now transpires that the plaintiff said her deceased father had been giving her $50 a month as she was a widow with one child to support, and her sister said that the deceased had been giving her $20 a month regularly as she had children and her husband, who was working as an hospital attendant, but she was, at the time of the deceased's death, not working. The deceased was a rubber tapper and was stated to be earning $84 p.m. which figure was admitted by the Defence. He was stated to have no other dependants whatsoever. It was also stated that he had outside earnings of between $60 and $90 p.m. from the sale of pea-nuts. It was established that he had about six years of working life left. Accepting the figure of $70 as the amount received monthly by the two daughters, the deceased was contributing to them at the rate of $840 a year. The capital sum to produce this for six years at 5 per cent per annum would be $4,267 which I award as General Damages. There will be also an award of $220 as Special Damages, as agreed, for funeral expenses. For loss under section 8, as the deceased was reaching the end of his working life, I propose to award a sum of $2,500.

Mr. Harris applied for the cost of obtaining Letters of Administration, that is to say, $350 to be deducted from the sum of $2,500 awarded under section 8 before that sum is deducted from the award made under section 7. I agreed to this course.

There will therefore be an award under section 7 of $2,117 and under section 8 in respect of loss to the estate of $2,500, and Special Damages of $220 for funeral expenses. The proportions in which the two dependants should share damages are five-sevenths for the plaintiff and two-sevenths for N. Samy Krishna Ammal.

The defendant will pay costs.

Stay of execution for 14 days or, on the filing of the notice of appeal, until the determination of the appeal.

Order accordingly.

Solicitors: *Braddell Bros.; Murphy & Dunbar.*

SOON PENG SIONG v. SIN YUH MIAW

[A. C. J. (Chua J.) September 15, 1960]

[Singapore — District Court Appeal No. 5 of 1960]

Workmen's Compensation — Injury suffered in course of dismantling vessel for scrap iron dealer — Whether work undertaken in course of or for the purpose of trade or business of principal — Liability to pay compensation — Workmen's Compensation Ordinance (Cap. 157), s.19(1) — Application of.

In order that section 19(1) of the Workmen's Compensation Ordinance shall apply there must first be work undertaken by the principal; secondly, the work must be in the course of, or for the purpose of his trade or business; and, thirdly, he must contract with another person for the execution of the whole, or some part, of the work. Whether the work is undertaken by the principal is in each case a question of fact.

Case referred to:—

(1) *Hockley* v. *West London Timber & Joinery Co.* [1914] 3 K.B. 1013.

APPEAL from Workmen's Compensation Arbitration.

Po Guan Hock for the appellant.

Tan Boon Teik (Director of Legal Aid) for the respondent.

Chua J.: This is an appeal from a decision of the Workmen's Compensation Arbitrator holding that the respondent in this appeal, Sin Yuh Miaw, is entitled to compensation from the appellant, Soon Peng Siong, under section 19(1) of the Workmen's Compensation Ordinance (Cap. 157).

The material facts are as follows. The appellant is the managing proprietor of Chop Siong Huat. By an agreement dated the 12th September, 1958, made between Pearl Salvaging Co. (the Vendors) and Chop Siong Huat (the Purchasers) it was agreed that "the Vendors will sell to the Purchasers the front bow of the vessel 'Shieretoko Maru' (hereinafter called the 'vessel') comprising of four of the five hatches of the whole vessel, ... for dismantling under the following terms and conditions." It is unnecessary to set out all the terms and conditions. Clause 1 provides: "The Purchasers will undertake to completely dismantle the vessel and purchase from the Vendors whatever metals dismantled from the vessel . . . . at the following prices:— . . . . " Clause 2 provides: "All expenses in connection with the dismantling will be for the Purchasers' account." Clause 3 stipulates that an advance payment of $150,000 for the purchase of metals dismantled should be made by the Purchasers. Clause 4 provides for the Purchasers to make further payment to cover the cost of the metals taken by the Purchasers and "the amounts of further payments will be based on the quantity of the goods yet to be delivered and dismantled". Clause 6 provides that should the quantity of the scrap from the vessel fail to reach 3,000 tons, after the vessel has been completely dismantled, the Vendors agree to supply whatever quantity is short to make up the 3,000 tons. By an agreement dated the 16th September, 1958, made between one Ang Geok Ho and Chop Siong Huat, Ang Geok Ho undertook to dismantle and cut up the vessel "Shiretoko Maru", the same vessel referred to in the agreement dated the 12th September, 1958, between Pearl Salvaging Co. and Chop Siong Huat. Ang Geok Ho engaged workmen for the work and one of them was the respondent. In the course of the dismantling and cutting up of the vessel the respondent was injured in the eye.

The respondent claimed from the appellant compensation for injury suffered in the course of his employment. The claim was heard by the Commissioner of Workmen's Compensation who made the following order:

"I find Soon Peng Siong, Managing Proprietor of Chop Siong Huat of 73 Kallang Road to be the Principal contractor to Ang Geok Thye alias Ang Geok Ho, employer of injured workman, Sin Yuh Miaw. In accordance with section 19 of the Workmen's Compensation Ordinance I formally order Soon Peng Siong on behalf of Chop Siong Huat, 73 Kallang Road to pay to me the said $2,854.20 within two weeks of the service of this claim to him."

The claim was then referred to the Workmen's Compensation Arbitrator in accordance with the provisions of section 30 of the Workmen's Compensation Ordinance. The claim was heard by the Arbitrator who made the following order:

"Having duly considered the matter submitted to me I do hereby order the 1st respondent Soon Peng Siong of Chop Siong Huat to pay to the Commissioner for Workmen"s Compensation on behalf of the applicant Sin Yuh Miaw the sum of $2,854.20.

In accordance with the provisions of section 19(2) (Cap. 157) the 1st respondent Soon Peng Siong of Chop Siong Huat, 73 Kallang Road, Singapore is entitled to be indemnified by the 2nd respondent Ang Geok Thye of 334 Pasir Ris, Singapore."

The Arbitrator found that "the dismantling is a condition precedent to the purchase and . . . that the said agreement referred to was an 'agreement to dismantle and purchase' and not an 'agreement of sale'."

This appeal raises a question under section 19(1) of the Workmen's Compensation Ordinance (Cap. 157). It says as far as it is relevant to this case:

"Where any person (in this section referred to as 'the principal') in the course of or for the purpose of his trade or business contracts with any other person otherwise than as a tributer (in this section referred to as 'the contractor') for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him."

In substance section 19(1) corresponds to section 6(1) of the English Workmen's Compensation Act, 1925, though there are a few differences, which, however, are not material as far as this appeal is concerned.

The question that falls to be decided by this Court is this: Was the work of dismantling the vessel work undertaken "in the course of or for the purposes of" the trade or business of the appellant ?

The appellant submits that the work in question was not undertaken by him and it is not work in the course of or for the purpose of his trade or business. He says that his business is that of a scrap dealer and not a ship-breaker and although it may be necessary for him to break up what he has bought he always entrusts such work to others. He further says that the agreement of the 12th September, 1958, was an agreement by him to buy scrap of 4 of the 5 hatches of the ship on certain conditions and one of which was that he must break up the ship as it was necessary to weigh the metal.

In order that section 19(1) shall apply there must first be work undertaken by the principal; secondly, the work must be in the course of, or for the purpose of his trade or business; and, thirdly, he must contract with another person for the execution of the whole, or some part, of the work. Whether the work is undertaken by the principal is in each case a question of fact. (*Hockley* v. *West London Timber and Joinery Company*)[1].

Now, the appellant in his evidence before the Arbitrator says, as regards his business: "I buy boats and break them up for scrap . . . . My business is to buy and sell scrap. I have never before undertaken any work as a principal contractor. I give out contract to others." I have not been able to entertain any doubt upon the evidence given in this case that it was part of the appellant's business to undertake to break up ships, without which he could not buy the scrap and carry on his business of a scrap dealer and it is immaterial that he found it more convenient in practice to sub-contract for that part of the work, which he had contracted to do. The appellant undoubtedly entered into a contract to break up the whole ship, as was found by the Arbitrator, and it appears to me clear that the appellant undertook the work.

It follows therefore that this appeal must be dismissed.

Appeal dismissed.

Solicitors: *Wee Swee Teow & Co.; Director of Legal Aid.*

SEMANTAN ESTATE (1952) LTD. v. COLLECTOR OF LAND REVENUE

[O. C. J. (Ong J.) September 21, 1960]

[K. L. — Civil Application No. 2 of 1959]

Land Acquisition Enactment (Cap. 140), ss.11 (1)(c) and 22 — Where Collector in making award omitted to carry out statutory duty — Whether effect of such omission invalidates the award — Jurisdiction of Court to hear the reference.

A reference to Court in the matter of land acquisition is governed by the Land Acquisition Enactment (Cap. 140), and its jurisdiction to entertain the reference is a jurisdiction resting solely on that statute. The condition prescribed by section 22 must be complied with before the Collector can make the reference and the Court has jurisdiction to act on it.

Cases referred to:—

(1) *Nusserwanjee Pestonjee* v. *Meer Mynoodeen Khan* (1855) 6 Moo. I.A. 134, 155.

(2) *In re Land Acquisition Act, Government* v. *Nanu Kothare & Ors.* I.L.R. 30 Bom. 275, 285.

REFERENCE in Land Acquisition.

R. H. V. Rintoul and *Yong Pung-How* for the appellant.

R. Ramani and *Ng Ek Teong* for the respondent.